

**MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)**

**Act 58 of 1998**

**CHAPTER 6**

**436.1601 Licensing qualifications; wholesale licensee or applicant for wholesale license as individual, partnership, limited partnership, or corporation; prohibitions.**

Sec. 601. (1) A wholesale licensee or an applicant for a wholesale license, if an individual, shall be licensed only if that individual has resided in this state for not less than 1 year immediately prior to the date of issuance of the license.

(2) A wholesale licensee or an applicant for a wholesale license, if a partnership other than a limited partnership, shall be licensed only if all of its members have resided in this state for not less than 1 year immediately prior to the date of issuance of the license.

(3) A wholesale licensee or an applicant for a wholesale license, if a limited partnership, shall be licensed only if the limited partnership is authorized to do business under the laws of this state, and if the general partner and all limited partners have resided in this state for not less than 1 year immediately preceding the date of issuance of the license. If the general partner is a corporation, the limited partnership shall be licensed only if the corporation has been authorized to do business under the laws of this state for not less than 1 year immediately preceding the date on which the corporation obtained an interest in the limited partnership. A limited partnership that holds a wholesale license shall not admit as a new limited partner an individual who has not resided in this state for at least 1 year immediately preceding the date on which the limited partnership interest was acquired by the individual.

(4) A wholesale licensee or an applicant for a wholesale license, if a corporation, shall be licensed only if the corporation is authorized to do business under the laws of this state and if all stockholders of the corporation have resided in this state for not less than 1 year immediately preceding the date of issuance of the license. A corporation that holds a wholesale license shall not issue shares of the corporation's stock to a person who has not resided in this state for at least 1 year immediately preceding the date on which the corporate stock was acquired by the person.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1603 Interest in business of other vendor prohibited; placing certain stock in portfolio under arrangement of trust agreement; issuance and sale of participating shares within state prohibited; sale of brandy by manufacturer; conditions; sale by small distiller; interest of brewpub in other locations; interest in business of other supplier; approval pursuant to R 436.1023(3); interest of manufacturer in wholesaler prohibited; delivery of wine by wine maker to retail licensees prohibited; definitions.**

Sec. 603. (1) Except as provided in subsections (6) to (12) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(2) Except as provided in subsections (6) to (12) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits or a stockholder of a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest by ownership in fee, leasehold, mortgage, or otherwise, directly or indirectly, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(3) Except as provided in subsections (6) to (12) and section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not have an interest directly or indirectly by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(4) Except as provided in subsections (6) to (12) and section 605, a person shall not buy the stocks of a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits and place the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement and issue participating shares based upon the portfolio, trust agreement, or investment trust agreement, and sell the participating shares within this state.

(5) The commission may approve a brandy manufacturer to sell brandy made by that brandy manufacturer

in a restaurant for consumption on or off the premises if the restaurant is owned by the brandy manufacturer or operated by another person under an agreement approved by the commission and is located on the premises where the brandy manufacturer is licensed. Brandy sold for consumption off the premises under this subsection shall be sold at the uniform price established by the commission.

(6) The commission shall allow a small distiller to sell brands of spirits it manufactures for consumption on the licensed premises at that distillery.

(7) A brewpub may have an interest in up to 2 other brewpubs so long as the combined production of all the locations in which the brewpub has an interest does not exceed 5,000 barrels of beer per calendar year.

(8) This section does not prohibit a supplier from having any interest, directly or indirectly, in any other supplier.

(9) The commission may approve the following pursuant to R 436.1023(3) of the Michigan administrative code, subject to the written approval of the United States department of treasury, bureau of alcohol and tobacco tax and trade:

(a) A wine maker participating with 1 or more wine makers in an alternating proprietor operation in accordance with 27 CFR part 24, subpart D, section 24.136.

(b) A brewer participating with 1 or more brewers in an alternating proprietor operation in accordance with 27 CFR part 25, subpart F, section 25.52.

(10) A manufacturer is prohibited from having any interest, directly or indirectly, in a wholesaler.

(11) A wine maker is prohibited from collectively delivering wine, with any other wine maker, to retail licensees.

(12) As used in this section:

(a) "Manufacturer" means, notwithstanding section 109(1), a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, small distiller, brandy manufacturer, and mixed spirit drink manufacturer.

(b) "Supplier" means a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2009, Act 2, Imd. Eff. Mar. 27, 2009.

**436.1605 Acquisition, development, sale, lease, financing, maintenance, operation, or promotion by brewer of real property occupied or to be occupied by another vendor; conditions; denial or approval of arrangement or contract; review; denial, revocation, or suspension of license; wholesaler as party to arrangement or contract prohibited; acquisition, development, sale, lease, financing, maintenance, operation, or promotion of condominium project or unit; exception.**

Sec. 605. (1) A brewer, or the parent company, a subsidiary or an affiliate of a brewer which parent company, subsidiary, or affiliate is located in this state may acquire, develop, sell, lease, finance, maintain, operate, or promote real property occupied or to be occupied by another vendor, except a wholesaler, if all of the following exist:

(a) The brewer has received written approval of the commission before entering into any arrangement or contract between the parties regarding the real property.

(b) The legislative body of the city, village, or township where the property is located certifies to the commission that the real property is in an urban, commercial, or community redevelopment area and is designated as such by a state or federal agency.

(c) Any arrangement or contract entered into between the brewer, its parent company, subsidiary, or affiliate and another vendor shall not directly or indirectly influence or control the brand of alcoholic liquor sold or to be sold by the vendor and shall only be concerned with real property.

(2) The commission may deny or approve an arrangement or contract to be entered into under this section. In denying or approving an arrangement or contract, the commission shall consider all of the following:

(a) That the arrangement or contract to be entered into is concerned only with real property.

(b) That the certification required under subsection (1)(b) has been received by the commission.

(c) That the arrangement or contract does not violate this act or the rules promulgated under this act.

(3) The commission may review any arrangement or contract under this section at the time that 1 of the parties to the arrangement or contract applies for or renews a license. The commission may deny, revoke, or suspend the license of a party to the arrangement or contract if the commission finds that the party to the arrangement or contract has violated this act or the rules promulgated under this act.

(4) Except as otherwise provided in subsection (5), a wholesaler shall not be a party to, directly or indirectly, an arrangement or contract under this section.

(5) A manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, authorized distribution

agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may acquire, develop, sell, lease, finance, maintain, operate, or promote a condominium project or own a condominium unit as its sole property, under the condominium act, 1978 PA 59, MCL 559.101 to 559.275, if that condominium unit is not the licensed premises owned separately by a retailer and if all of the following apply:

(a) Condominium assessments in the condominium project are based on the proportional area each condominium unit has to the total area.

(b) A condominium unit operating as a licensed premises operates under a separate name from the condominium project except that cooperative advertising shall be permitted among owners of condominium units for the purpose of promoting the condominium project if the name of a brand or brands of an alcoholic liquor is not mentioned in the advertising.

(c) Ownership of a condominium unit and participation in a condominium association under this section is not considered a financial interest, interest by ownership, or interest by interlocking directors on stock ownership prohibited by section 603.

(d) A retailer separately owning a separate condominium unit as sole property does not directly purchase alcoholic liquor from the manufacturer, warehouse, wholesaler, outstate seller of mixed spirit drink, or vendor of spirits who owns, leases, maintains, finances, or operates the condominium project.

(e) A wholesaler who has a direct or indirect interest in a condominium unit in which a retailer is located does not sell alcoholic liquor to any licensed retail business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest; and, a retail licensed business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest does not purchase alcoholic liquor from a wholesaler who has a direct or indirect interest in a condominium or condominium unit in which that retailer is located.

(f) A retailer acquiring a separate condominium unit as sole property pays the fair market value for the unit.

(6) Subsection (5) does not apply to a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits with a direct or indirect interest in a license under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.216. Subsection (5) does not prohibit a direct physical connection between a condominium unit which is the licensed premises and a condominium unit which is not the licensed premises.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1607 Eligibility for license as specially designated merchant or specially designated distributor; prohibitions; small distiller; wine maker and small wine maker; brewer as specially designated merchant; brewery hospitality room; sales or deliveries by wholesaler.**

Sec. 607. (1) Except as provided in section 537(2), a warehouse, mixed spirit drink manufacturer, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not be licensed as a specially designated merchant or a specially designated distributor. A person licensed as a small distiller is not considered to be a specially designated distributor. Beginning December 23, 2007 and in addition to the persons described in this subsection, a wine maker and a small wine maker shall also not be licensed as a specially designated merchant or a specially designated distributor. Any wine maker or small wine maker holding a specially designated merchant or specially designated distributor license on December 23, 2007 may continue to hold a specially designated merchant or specially designated distributor license.

(2) A specially designated distributor or specially designated merchant or any other retailer shall not hold a mixed spirit drink manufacturer, wholesale, warehouse, outstate seller of beer, outstate seller of mixed spirit drink, or outstate seller of wine license. Beginning December 23, 2007, a specially designated distributor or specially designated merchant shall not hold a wine maker or small wine maker license in addition to being prohibited from holding any other license described in this subsection. Any specially designated distributor or specially designated merchant holding a wine maker or small wine maker license on December 23, 2007 may continue to hold a wine maker or small wine maker license.

(3) A brewer, warehouse, or wholesaler shall not be licensed as a specially designated merchant. This subsection does not affect the operation of a brewery hospitality room.

(4) A wholesaler may sell or deliver beer and alcoholic liquor to hospitals, military establishments, governments of federal Indian reservations, and churches requiring sacramental wines and may sell to the wholesaler's own employees to a limit of 2 cases of 24 12-ounce units or its equivalent of malt beverage per

week, or 1 case of 12 1-liter units or its equivalent of wine or mixed spirit drink per week.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005;—Am. 2008, Act 218, Imd. Eff. July 16, 2008.

**436.1609 Aiding or assisting other vendor prohibited; exception; refunding amount of price reductions.**

Sec. 609. Except as provided in section 605, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not aid or assist any other vendor by gift, loan of money or property of any description, or other valuable thing, or by the giving of premiums or rebates, and a vendor shall not accept the same. However, if manufacturers of spirits reduce the price of their products, the manufacturer of spirits may refund the amount of the price reductions to specially designated distributor licensees in a manner prescribed by the commission.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1611 Refund or credit of tax paid on wine, mixed spirit drink, or beer; conditions; time limitation; form and contents of claim; supporting evidence; removal or destruction of damaged wine, beer, or mixed spirit drink; applicability of section; rebate of tax paid on wine or mixed spirit drink.**

Sec. 611. (1) A refund or credit of the tax on wine or mixed spirit drink paid under section 301 and of the tax on beer paid under section 409 shall be made by the commission to a brewer, wine maker, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, manufacturer of mixed spirit drink, wholesaler, or retail licensee who paid the tax if the wine, beer, or mixed spirit drink was sold to a military installation or Indian reservation in this state or, subject to subsection (2), if the wine, beer, or mixed spirit drink is lost, made unmarketable, or condemned by order of the commission as the result of a fire, flood, casualty, or other occurrence. A refund or credit shall not be made as the result of theft.

(2) A refund or credit of taxes as provided in subsection (1) shall be made for damaged wine, beer, or mixed spirit drink only if all of the following circumstances exist:

(a) At the time of the fire, flood, casualty, or other occurrence, the wine, beer, or mixed spirit drink was being held for sale by the vendor claiming the refund or credit.

(b) The refund or credit of the amount claimed or any part of the amount claimed has not been and will not be claimed for the same wine, beer, or mixed spirit drink under any other law or rule.

(c) The vendor claiming the refund or credit is not indemnifiable by any valid claim of insurance or otherwise for the tax on the wine, beer, or mixed spirit drink covered by the claim.

(d) The amount claimed for a refund or credit is more than \$250.00 or the refund or credit is claimed for defective wine, beer, or mixed spirit drink for which the commission has authorized a manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, manufacturer of mixed spirit drink, or wholesaler to make an exchange, have replaced, or be reimbursed.

(e) The occurrence was not caused by an intentional act of the vendor claiming the refund or credit or an agent of that vendor.

(3) A claim for a refund or credit of the tax as provided in subsection (1) shall be made not later than 3 months after either of the following:

(a) The date upon which the damage occurred or was first discovered.

(b) The date of the sale to a military installation or Indian reservation in this state.

(4) A claim for a refund or credit of the tax as provided in subsection (1) shall be submitted to the commission on a form approved by the commission. The claim shall contain the following information, as applicable:

(a) The name and business address of the vendor claiming the refund or credit.

(b) The address where the wine, beer, or mixed spirit drink was lost, made unmarketable, or condemned, if different from the business address.

(c) The address of the military installation or Indian reservation to which the wine, beer, or mixed spirit drink was sold.

(d) The kind of wine, beer, or mixed spirit drink.

(e) The size of bottles or containers.

(f) The number of bottles or containers.

(g) The total amount of wine, beer, or mixed spirit drink that was sold or damaged. The amount shall be stated in liters or portions of liters for wine and mixed spirit drink and barrels or portions of barrels for beer.

(h) A statement that other claims for a refund or credit of the amount claimed or for any part of the amount claimed have not been and will not be made.

(i) A statement that the vendor has not been indemnified by a valid claim of insurance or otherwise for the tax on the wine, beer, or mixed spirit drink covered by the claim.

(j) Evidence that the tax on the wine, beer, or mixed spirit drink has been paid.

(k) Evidence that the wine, beer, or mixed spirit drink was lost, made unmarketable, or condemned by reason of damage sustained as the result of a fire, flood, casualty, or other occurrence.

(l) A statement as to the type and date of the occurrence.

(m) A statement that the occurrence was not caused by an intentional act of the vendor claiming the refund or credit or an agent of that vendor.

(5) The vendor claiming the refund or credit for damaged wine, beer, or mixed spirit drink shall support a claim with any evidence, such as an inventory, statement, invoice, bill, record, or label, relating to the quantity of wine, beer, or mixed spirit drink on hand at the time of the fire, flood, casualty, or other disaster and alleged to have been lost, made unmarketable, or condemned as a result of the damage.

(6) Before or after a tax refund or credit has been made for damaged wine, beer, or mixed spirit drink, the wine, beer, or mixed spirit drink upon which the refund or credit is based shall be removed from this state or destroyed under the supervision of the commission.

(7) In addition to the provisions of this section, the tax paid on wine or mixed spirit drink pursuant to section 301 shall be rebated to the person who paid the tax upon the presentation of satisfactory proof to the commission that the wine or mixed spirit drink was shipped outside of this state for sale and consumption outside of this state.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.